

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Bovill Post Office
Bovill, Idaho

Docket No. A2012-109

ORDER AFFIRMING DETERMINATION

(Issued April 11, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On December 28, 2011, Jamie Fiorino (Petitioner Fiorino) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Bovill, ID post office (Bovill post office).² Additional petitions for review were received from Diane L. Holt (Petitioner Holt) and Manley and Karen Waldron (Petitioners Waldon).³ The Final Determination to close the Bovill post office is affirmed.⁴

II. PROCEDURAL HISTORY

On January 19, 2012, the Commission established Docket No. A2012-109 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁵ On January 12, 2012, the Postal Service filed the Administrative Record with the Commission.⁶ The Postal Service supplemented the Administrative Record on February 22, 2012.⁷

² Petition for Review received from Jamie Fiorino, Pastor, Bovill Presbyterian Church, regarding the Bovill, ID post office 83806, December 28, 2011 (Fiorino Petition).

³ Petition for Review received from Diane L. Holt regarding the Bovill, ID post office 83806, January 10, 2012 (Holt Petition); Petition for Review received from Manley and Karen Waldron regarding the Bovill, ID post office 83806, January 10, 2012 (Waldron Petition).

⁴ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁵ Order No. 1148, Notice and Order Accepting Appeal and Establishing Procedural Schedule, January 19, 2012.

⁶ The Administrative Record is attached to the United States Postal Service Notice of Filing Administrative Record, January 12, 2012 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Bovill, ID Post Office and Extend Service by Rural Route Service (Final Determination). On February 22, 2012, the Postal Service submitted a document inadvertently omitted from the record filed on January 12, 2012. United States Postal Service Notice of Filing Supplement to the Administrative Record, February 22, 2012.

⁷ United States Postal Service Notice of Filing Supplement to the Administrative Record, February 22, 2012.

The Postal Service filed comments requesting that the Commission affirm its Final Determination.⁸ The Public Representative also filed comments.⁹

III. BACKGROUND

The Bovill post office provides retail postal services and service to 142 post office box or general delivery customers. Final Determination at 2. No delivery customers are served through this post office. The Bovill post office, an EAS-11 level facility, provides retail service from 7:30 a.m. to 12:15 p.m. and 1:00 p.m. to 4:00 p.m. Monday through Friday, and is closed on Saturday. Lobby access hours are 24 hours daily Monday through Saturday. *Id.*

The postmaster position became vacant on April 22, 2010 when the Bovill postmaster was promoted. A non-career officer-in-charge (OIC) was installed to operate the post office. *Id.* at 7. Retail transactions average 7 transactions daily (7 minutes of retail workload). *Id.* at 2. Post office receipts for the last 3 years were \$16,769 in FY 2008; \$13,000 in FY 2009; and \$11,102 in FY 2010. *Id.* There was one permit or postage meter customer. By closing this office, the Postal Service anticipates savings of \$28,270 annually. *Id.* at 7.

After the closure, retail services will be provided by the Deary post office located approximately 9 miles away.¹⁰ Delivery service will be provided by rural carrier service to cluster box units (CBUs) through the Deary post office. *Id.* The Deary post office is an EAS-13 level office, with retail hours of 7:45 a.m. to 4:15 p.m. Monday through Friday, and 9:30 a.m. to 10:30 a.m. on Saturday. *Id.* Thirteen (13) post office boxes are available. *Id.* The Postal Service will continue to use the Bovill name and ZIP Code. *Id.* at 3, Concern No. 5.

⁸ United States Postal Service Comments Regarding Appeal, February 22, 2012 (Postal Service Comments). The accompanying Postal Service motion for late acceptance of its comments is granted.

⁹ Public Representative Comments, March 9, 2012 (PR Comments). The Public Representative's accompanying motion for late acceptance of its comments is granted.

¹⁰ *Id.* at 2. MapQuest estimates the driving distance between the Bovill and Deary post offices to be approximately 10.4 miles (13 minutes driving time).

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioners oppose the closure of the Bovill post office. Petitioners are concerned about the sufficiency of rural carrier service, traveling to another post office, and the impact of the Bovill post office closure on senior citizens. Waldron Petition at 1. Petitioners argue that the community will be adversely affected if the Bovill post office is closed. Fiorino Petition at 1; Holt Petition at 1. Petitioners make several suggestions of ways the Postal Service could keep the Bovill post office open and still save money. *Id.* Finally, Petitioners point out errors in the record with respect to information about Bovill, and imply that these errors demonstrate a lack of care and interest on the part of the Postal Service. *Id.*

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Bovill post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Bovill community; and (3) the calculation of economic savings expected to result from discontinuing the Bovill post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Bovill post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Bovill post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- very little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 4-5. The Postal Service contends that it will continue to provide regular and effective postal services to the Bovill community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, the effect on the Bovill community, economic savings, and the effect on postal employees. *Id.* at 11.

Public Representative. The Public Representative argues that the Final Determination is flawed in at least three ways, and recommends remand. PR Comments at 4. First, the Public Representative states that the Postal Service failed to elicit meaningful public feedback on its proposal to provide service to CBUs. *Id.* Second, he alleges that the Postal Service did not address important customer concerns. He adds that the Deary post office has insufficient post office boxes available, and this shortfall will be worse if the Postal Service closes the nearby Elk River post office as has been proposed. *Id.* at 7. Third, the Public Representative argues that the Postal Service miscalculated the economic savings that will result from closure of the Bovill post office. *Id.* at 8.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the

Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On May 2, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Bovill post office. Final Determination at 2. A total of 150 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 61 questionnaires were returned. *Id.* On April 26, 2011, the Postal Service held a community meeting at Bovill Elementary School to address customer concerns. Seventy-six (76) customers attended. *Id.*

The Postal Service posted the proposal to close the Bovill post office with an invitation for comments at the Bovill and Deary post offices from May 31, 2011 to August 1, 2011. *Id.* The Final Determination was posted at the Deary post office from January 12, 2012 to March 13, 2012. The Final Determination was posted at the Bovill post office on December 8, 2011, and will remain posted due to this appeal. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Bovill is an unincorporated community located in Latah County, Idaho. Administrative Record, Item No. 16. The community is administered politically by the City of Bovill. Police protection is provided by the Latah County Sheriff. Fire protection is provided by a volunteer fire department. The community is comprised of retirees and those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Bovill community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Bovill post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 7.

Petitioner Fiorino states that the post office serves as a social center for the Bovill community. Fiorino Petition at 1. The Postal Service responds that after the Bovill post office is closed, residents can continue to meet informally, socialize, and share information at other businesses, churches, and residences in town. Postal Service Comments at 9.

Petitioner Holt argues that closing the Bovill post office will adversely affect the community. She asserts that new businesses will not move in, and the town will likely lose its charter and grade schools. Holt Petition at 1.

The Public Representative also maintains that the Postal Service did not adequately address concerns about the impact on the Bovill business community. PR Comments at 6. Specifically, he states that customers were concerned about economic harm from lost business opportunities or declines in property values. *Id.* The Postal Service responds that there has been no indication that the business community has been adversely affected. It adds that businesses generally require regular and effective postal services, which will continue to be provided to the Bovill community. Postal Service Comments at 9.

Petitioners Fiorino and Holt point to errors in the Administrative Record regarding the Bovill community description. They assert that Bovill is an incorporated town, the church is Presbyterian, and Bovill is a logging community. Fiorino Petition at 1; Holt Petition at 1. The Postal Service acknowledges that follow-up research confirms Petitioners' statements about inaccuracies in the record of the community description. It maintains, however, that such errors do not have a material impact on the legal factors at issue in the appeal. Postal Service Comments at 8, n.15.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Bovill postmaster was promoted on April 22, 2010, and that an OIC has operated the Bovill post office since then. Final Determination at 7. It asserts that after the Final Determination is implemented, the temporary OIC may be separated from the Postal Service, and that no other Postal Service employee will be adversely affected. *Id.*

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Bovill post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Bovill customers. Postal Service Comments at 5. It asserts that customers of the closed Bovill post office may obtain retail services at the Deary post office located 9 miles away. Final Determination

at 2. Delivery service will be provided by rural carrier service through the Deary post office to CBUs in Bovill. *Id.* The Bovill post office box customers may obtain Post Office Box Service at the Deary post office, which has 13 boxes available. *Id.*

For customers choosing not to travel to the Deary post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioners Waldron are concerned about whether rural carrier service will be sufficient for senior citizens who may have difficulty traveling to a post office or who need to get their medications through the mail. Waldron Petition at 1. The Public Representative also raises the issue of whether such medications might heat up or freeze if left in a mailbox or CBU. PR Comments at 7. The Postal Service responds that rural carrier service is especially beneficial to senior citizens and those who face special challenges because the carrier can provide delivery and retail services to CBUs located close to customer residences. Furthermore, in hardship cases, it states that the rural carrier can deliver mail directly to the home of the customer. Postal Service Comments at 6.

Petitioner Fiorino suggests keeping the building and the individual post office boxes open, and placing an automated machine inside the building for customers' shipping and purchasing needs. Fiorino Petition at 1. The Postal Service responds that the rural carrier can provide package pickup and delivery services in addition to other retail services. Postal Service Comments at 7, n.14.

The Public Representative argues that the Postal Service did not attempt to gather meaningful public feedback on the use of CBUs. PR Comments at 4. Citing to correspondence enclosed with the customer questionnaires, he asserts that the Postal Service initially informed Bovill customers that replacement service would be rural route delivery to street addresses. *Id.* He contends that the Final Determination was the first time the Postal Service formally notified customers that it would provide replacement service to CBUs. *Id.* at 5.

The cover letter to the questionnaires solicited feedback from customers about “a *possible* change to rural route service.” Administrative Record, Item No. 21 at 1. (emphasis added). It states that “[t]he recommended change is tentative and will not lead to a formal proposal” unless the change in service will provide a maximum degree of regular and effective service. *Id.* Thus, proposed changes to service are subject to change as the discontinuance study proceeds and the Postal Service develops a formal proposal to close.

Customers also had ample opportunity to comment on CBU delivery after the questionnaires were issued. On May 31, 2011, the Postal Service issued the proposal, which stated, “Service may be provided to cluster box units (CBUs).” Administrative Record, Item No. 33 at 1. In accordance with Postal Service regulations, the Proposal was posted at the Bovill and Deary post offices from May 31, 2011 to August 1, 2011. Final Determination at 2. Thus, postal customers had 2 months before the Final Determination was issued to provide feedback to the Postal Service on the proposed service to CBUs.

The Public Representative questions whether the 13 post office boxes available for rent at the Deary post office are sufficient to provide regular and effective service to the 142 post office box customers of the Bovill community. He notes that the Postal Service has proposed closing the nearby Elk River post office and transferring its post office box customers to the Deary post office, which would worsen the shortfall of post office boxes. PR Comments at 7.

The Final Determination states that after the closure, delivery and retail services will be provided by rural route service to CBUs. Final Determination at 2. The Administrative Record states that 135 additional boxes will be added to the route. Administrative Record, Item No. 17 at 4. Assuming that 135 of the existing 142 Bovill post office box customers receive rural route service to CBUs, only 7 post office boxes would be needed to ensure that all Bovill patrons receive effective and regular service. Given that the Postal Service is installing CBUs, Bovill customers will continue to receive regular and effective service via delivery to CBUs or post office boxes at a

nearby facility. The Postal Service should ensure that an adequate number of post office boxes will be available at nearby post offices to meet demand.¹¹

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$28,270. Final Determination at 7. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$4,000), minus the cost of replacement service (\$20,009). *Id.*

The Public Representative argues that the Postal Service miscalculated the economic savings anticipated from closing the Bovill post office. PR Comments at 8. Although he acknowledges that the Postal Service will save \$4,000 in annual lease costs, he notes that the Postal Service may reassign the current OIC, which would eliminate any savings from labor costs. He also contends that the economic savings should have been calculated using the salary and benefits of the OIC rather than the postmaster. *Id.* at 8-9.

The Bovill post office postmaster was promoted on April 22, 2010. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; and Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Bovill post office has been staffed by an OIC for approximately 2 years, even if a lower OIC salary was used in the Postal Service's calculation, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

Petitioners Fiorino and Holt suggest strategies for reducing costs in lieu of complete closure of the Bovill post office. Specifically, Petitioners suggest cutting the

¹¹ See, Docket No. A2012-51, Order No. 1226, Order Affirming Determination, February 14, 2012, at 9.

level of the Bovill post office or reducing the hours it is open for business. Holt Petition at 1; Fiorino Petition at 1. The Postal Service observes that it has broad experience with similar options; however, in this case, it has determined that rural carrier service to CBUs, coupled with service at the nearby Deary post office, is a more cost-effective solution than maintaining the Bovill post office facility and career position. Postal Service Comments at 10.

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Bovill post office is affirmed.¹²

It is ordered:

The Postal Service's determination to close the Bovill, Idaho post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

¹² See footnote 4, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Bovill post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster was promoted on April 22, 2010. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only a non-career OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

I am also concerned about the distances between the Bovill post office and those that are offered as substitutes. The Deary post office identified as the administrative

office is 10.4 driving miles away according to MapQuest. Several members of Congress have publicly expressed concern that post offices that are 10 miles apart should be maintained in rural areas. The Postmaster General has expressed interest in finding other ways to serve such distant post offices rather than close them altogether. Recent legislation has been introduced precluding the closure of a post office in cases where the nearest post office is more than 10 miles away. In addition, the Commission, in its recent Advisory Opinion (Docket No. N2011-1), found that by using optimization modeling the Postal Service could make better choices about which post offices to close that would assure adequate access in rural areas. This closing should be reconsidered within the context of the policies now being developed regarding distant rural post offices.

Further, the Commission has often expressed a concern—and I have consistently expressed the concern—that the maintenance of adequate service requires providing an adequate number of post office boxes in the receiving facility. The Bovill post office provides service to 142 post office box customers. However, the administrative replacement office in Deary has only 13 post office boxes available. This is a significant shortfall. The Public Representative correctly points out that this shortfall will be exacerbated with the planned closing of the Elk River, Idaho post office.¹ Unlike my colleagues, in this instance I am not convinced that hortatory words will result in adequate service for customers. Thus, the record does not show that the Postal Service has sufficiently considered the issues raised by customers concerning the provision of effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices

¹ See *generally* Docket A2012-99 (Review of the Postal Service's Determination to Close the Elk River Post Office in Elk River, Idaho).

have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Bovill, Idaho and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

It appears that the Postal Service did not adequately consider the effects on the community and whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining" as required by 39 U.S.C. § 404(d)(2)(A)(i) and (iii). The Final Determination indicates that the Bovill post office has 142 post office box holders. The proposed administrative office, the Deary post office, has 13 post office boxes available.¹ While the Final Determination indicates that cluster box units will be provided to the patrons of the Bovill post office, the Postal Service should ensure that there are sufficient number of post office boxes available at the receiving post office to meet the demand, especially in cases when the proposed administrative office may be adding customers of other post offices that are also being discontinued.²

In addition, the Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility for 2 years, since April 2010, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

¹ The Deary post office has 8 post office boxes available. See A2012-99, Final Determination at 2.

² *Id.* The Deary post office is the proposed administrative office for the patrons of the Elk River post office.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Bovill post office and should be remanded.

Nanci E. Langley